

**§ 2.1b Availability in contested cases of information acquired by staff investigation.**

Pursuant to the Commission's authority under the Natural Gas Act, particularly subsection (b) of section 8 thereof, and under the Federal Power Act, particularly subsection (b) of section 301 thereof, upon request by a party to the proceedings, or as required in conjunction with the presentation of a Commission staff case of staff's cross-examination of any other presentation therein, all relevant information acquired by Commission staff, including workpapers pursuant to any staff investigation conducted under sections 8, 10, or 14 of the Natural Gas Act, and sections 301, 304 or 307 of the Federal Power Act, shall, without further order of the Commission, be free from the restraints of said subsection (b) of section 8 of the Natural Gas Act, and subsection (b) of section 301 of the Federal Power Act, regarding the divulgence of information, with respect to any matter hereafter set for formal hearing.

[58 FR 38292, July 16, 1993]

**§ 2.1c Policy statement on consultation with Indian tribes in Commission proceedings.**

(a) The Commission recognizes the unique relationship between the United States and Indian tribes as defined by treaties, statutes, and judicial decisions. Indian tribes have various sovereign authorities, including the power to make and enforce laws, administer justice, and manage and control their lands and resources. Through several Executive Orders and a Presidential Memorandum, departments and agencies of the Executive Branch have been urged to consult with federally-recognized Indian tribes in a manner that recognizes the government-to-government relationship between these agencies and tribes. In essence, this means that consultation should involve direct contact between agencies and tribes and should recognize the status of the tribes as governmental sovereigns.

(b) The Commission acknowledges that, as an independent agency of the federal government, it has a trust responsibility to Indian tribes and this historic relationship requires it to ad-

here to certain fiduciary standards in its dealings with Indian tribes.

(c) The Commission will endeavor to work with Indian tribes on a government-to-government basis, and will seek to address the effects of proposed projects on tribal rights and resources through consultation pursuant to the Commission's trust responsibility, the Federal Power Act, the Natural Gas Act, the Public Utility Regulatory Policies Act, section 32 of the Public Utility Holding Company Act, the Interstate Commerce Act, the Outer Continental Shelf Lands Act, section 106 of the National Historic Preservation Act, and in the Commission's environmental and decisional documents.

(d) As an independent regulatory agency, the Commission functions as a neutral, quasi-judicial body, rendering decisions on applications filed with it, and resolving issues among parties appearing before it, including Indian tribes. Therefore, the provisions of the Administrative Procedure Act and the Commission's rules concerning off-the-record communications, as well as the nature of the Commission's licensing and certificating processes and of the Commission's review of jurisdictional rates, terms and conditions, place some limitations on the nature and type of consultation that the Commission may engage in with any party in a contested case. Nevertheless, the Commission will endeavor, to the extent authorized by law, to reduce procedural impediments to working directly and effectively with tribal governments.

(e) The Commission, in keeping with its trust responsibility, will assure that tribal concerns and interests are considered whenever the Commission's actions or decisions have the potential to adversely affect Indian tribes or Indian trust resources.

(f) The Commission will seek to engage tribes in high-level meetings to discuss general matters of importance, such as those that uniquely affect the tribes. Where appropriate, these meetings may be arranged for particular tribes, by region, or in some proceedings involving hydroelectric projects, by river basins.

(g) The Commission will strive to develop working relationships with tribes and will seek to establish procedures to